

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

BLUE RIBBON STAFFING, LLC.

Plaintiff,

V.

FLATIRON CONSTRUCTORS, INC.,

LIBERTY MUTUAL INSURANCE

COMPANY, TRAVELERS CASUALTY AND

SURETY COMPANY, FIDELITY AND

DEPOSIT COMPANY OF MARYLAND,

ZURICH AMERICAN INSURANCE

COMPANY, FEDERAL INSURANCE

COMPANY, CONTINENTAL INSURANCE

COMPANY and BERKSHIRE HATHAWAY

SPECIALTY INSURANCE COMPANY,

Defendants.

CIVIL ACTION NO. 5:20-CV-00686

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Please take notice that Defendants Flatiron Constructors, Inc. (“Flatiron”), Liberty Mutual Insurance Company (“Liberty”), Travelers Casualty And Surety Company (“Travelers”), Fidelity And Deposit Company Of Maryland (“Fidelity”), Zurich American Insurance Company (“Zurich”), Federal Insurance Company (“FIC”), Continental Insurance Company (“Continental”), and Berkshire Hathaway Specialty Insurance Company (“Berkshire”), by their undersigned counsel, pursuant to 28 U.S.C. §§ 1332(a), 1441, and 1446, hereby file this Notice of Removal from the District Court of Bexar County, Texas, to the United States District Court for the Western District of Texas, San Antonio Division. The grounds for removal are as follows:

I. The State Court Action

1. On April 23, 2020, Plaintiff Blue Ribbon Staffing LLC (“Blue Ribbon”) filed an original petition against Defendants in the District Court of Bexar County, Texas, 407th Judicial District, as case number 2020-CI-07650, without a jury demand (the “State Court Action”). Blue Ribbon’s petition was for a suit on an alleged contract, seeking to collect on a bond it claims Defendants owe for labor Blue Ribbon allegedly performed. Defendants deny Blue Ribbon’s allegations and reserve all rights to contest them.

2. Under the parties’ Rule 11 agreement, the deadline for Defendants to respond to the petition is June 08, 2020. All Defendants consent to this removal.

3. Pursuant to 28 U.S.C. § 1446, Defendants have attached hereto as Exhibit “A” copies of all process, pleadings and orders served upon it in the State Court Action.

II. Venue

4. Venue is proper in the Western District of Texas under 28 U.S.C. § 1441(a) because the District Court of Bexar County is within the San Antonio Division.

III. Statutory Grounds for Removal

5. Defendants’ removal of this case is based upon 28 U.S.C. § 1441(a), which authorizes the removal of any civil actions filed in state court provided that the United States District Court has original jurisdiction for such actions. This Court has original jurisdiction over this action under 28 U.S.C. § 1332.

A. Diversity of Citizenship

6. Pursuant to 28 U.S.C. § 1332(a)(1), this Court has original diversity jurisdiction because, based upon the Petition’s allegations, the parties are citizens of different states. Plaintiff Blue Ribbon is alleged to be a Texas LLC located in Bexar County, Texas. *Ex. __, Pet.* at

§ III. Defendants are corporations and none are citizens of Texas. Flatiron is incorporated in Delaware and has a principal place of business in Colorado. Liberty is incorporated and has its principal place of business in Massachusetts. Travelers is incorporated in Connecticut and has a principal place of business in Connecticut. Fidelity is incorporated in Maryland with its principal place of business in Illinois. Zurich is incorporated in, and has its principal place of business in, New York. FIC is incorporated in, and has its principal place of business in, Indiana. Continental is incorporated in Pennsylvania with its principal place of business in Illinois. Berkshire is incorporated in Nebraska with its principal place of business in Massachusetts. Accordingly, while Plaintiff is a citizen of Texas, Defendants are citizens of other states for purposes of determining citizenship under 28 U.S.C. § 1332(c)(1), creating complete diversity.

B. More than \$75,000 in Controversy

7. This Court has diversity jurisdiction over civil actions if “the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs[.]” 28 U.S.C. § 1332 (a). The Petition claims that Defendants owe \$123,704.90 Ex. A, *Pet.* at § IV. The matter in controversy exceeds the \$75,000 threshold.

IV. Timeliness of Removal

8. The Notice of Removal is being filed within the extended responsive deadline agreed upon with Plaintiff.

V. Written Notice of Removal

9. As 28 U.S.C. § 1446(d) requires, after filing this Notice of Removal, Defendants will promptly give written notice of removal to Blue Ribbon by serving a written notice of the removal upon their counsel. Defendants will also file a Notice of Filing of Notice of Removal

with the Clerk of the District Court of Bexar County, Texas. A copy of this state court Notice is attached hereto as Exhibit B.

VI. No Waiver

10. By filing this Notice of Removal, Defendants do not waive any available defenses, including defenses to the personal jurisdiction of this Court, and does not admit any of Blue Ribbon's material allegations.

WHEREFORE, for the reasons stated above, Defendants hereby respectfully pray this case be removed to the United States District Court for the Western District of Texas, San Antonio Division, and for any further relief this Court deems just and appropriate.

Dated: June 8, 2020

Respectfully submitted,

/s/ Sylvia A. Cardona

SYLVIA A. CARDONA

State Bar No. 24032317

JEFFERSON CANO

112 East Pecan Street, Suite 1650

San Antonio, Texas 78205

Telephone: (210) 988-1806

Facsimile: (210) 988-1806

SCardona@jeffersoncano.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2020 I electronically filed the foregoing with the Clerk of Court using the CM/ECF system and also caused copies of the foregoing **NOTICE OF REMOVAL** to be served upon the following counsel in accordance with the Federal Rules of Civil Procedure:

Lewin Plunkett
lplunkett@pg-law.com
PLUNKETT, GRIESENBECK & MIMARI, INC.
1635 N.E. Loop 410, Suite 900
San Antonio, Texas 78209
Phone: (210) 734-7092
Fax: (210) 734-0379

/s/ Sylvia A. Cardona
Sylvia A. Cardona